

Conversions

Entry

Comptroller's Corporate Manual

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This booklet should be used together with other booklets of the *Comptroller's Corporate Manual*. Users of the "Conversions" booklet should refer to the "[General Policies and Procedures](#)" (GPP) booklet for discussion of additional instructions and procedures. Users may also need to refer to the following booklets: "[Branches and Relocations](#)," "[Charters](#)," "[Corporate Organization](#)," "[Fiduciary Powers](#)," "[Investment in Bank Premises](#)," and "[Investment in Subsidiaries and Equities](#)."

Background

The National Bank Act and the regulations of the Comptroller of the Currency (OCC) provide that certain financial institutions may convert to become national banks, if the financial institution can operate safely and soundly as a national bank in compliance with applicable laws, regulations, and policies. A financial institution must submit an application and obtain prior OCC approval to convert to a national bank charter. This booklet contains policies and procedures to guide banks in making a request; exceptions to these requirements also are explained.

Effective December 31, 1996, the OCC amended its corporate regulations to reorganize and streamline the conversion process. The amendment clarified the types of entities that may convert to a national bank. It also provided expedited procedures for healthy state banks or federal or state savings associations that wish to convert.

Definitions

A **depository institution**, for these procedures, means any savings association and state bank.

An **eligible bank** is a national bank that:

- Has a composite CAMELS rating of 1 or 2.
- Has a satisfactory or outstanding Community Reinvestment Act (CRA) rating. (This factor does not apply to an uninsured bank or branch or a special purpose bank covered by 12 CFR 25.11(c)(3).)
- Is well capitalized as defined at 12 CFR 6.4(b)(1).
- Is not subject to a cease and desist order, consent order, formal written agreement, or Prompt Corrective Action directive or, if subject to any

such order, agreement, or directive, is informed in writing by the OCC that the bank may be treated as an "eligible bank."

An **eligible depository institution** means a state bank or a federal or state savings association that meets the criteria for an "eligible bank" and is FDIC-insured.

Fiduciary powers means the authority the OCC permits a bank to exercise pursuant to 12 USC 92a. The extent of fiduciary powers is the same for out-of-state national banks as for in-state national banks and that extent depends upon the powers that the state grants to the fiduciaries in the state with which national banks compete.

A **national bank** means any national banking association and any bank or trust company located in the District of Columbia operating under the OCC's supervision.

A **state bank**, includes any bank, banking association, trust company, savings bank, or other banking institution engaged in the business of receiving deposits and incorporated under the laws of any state, any territory of the United States, Puerto Rico, or the Virgin Islands, or operating under the Code of Law for the District of Columbia (except a national banking association).

A **savings association**, for these procedures, includes a state savings association, a federal savings association, or a federal savings bank.

Applicability

A depository institution incorporated by special law of any state or of the United States or organized under the general laws of any state or of the United States may convert to a national banking association with the approval of the OCC. A mutual depository institution must convert to stock form before it may convert to a national bank.

A national bank seeking to convert to an institution with another type of charter is discussed in the "[Termination of National Bank Status](#)" booklet.

Key Policies

General

The OCC, consistent with its chartering policy, permits a depository institution that demonstrates the ability to operate safely and soundly and in compliance with applicable laws, regulations, and policies to convert to a national bank charter.

Generally, public notice under 12 CFR 5.8 does not apply to conversions, unless the OCC determines that the application presents a significant and novel policy, supervisory, or legal issue and that a public notice is necessary.

If the conversion is not consummated within six months from the date of an approval, the approval will be withdrawn. The OCC does not grant extensions of the approval period, except under the most extenuating circumstances, and expects the conversion to occur as soon as possible.

Decision Criteria

In determining action on a conversion application, the OCC normally considers the institution's:

- Condition and management, including compliance with regulatory capital requirements. If significant weaknesses exist in these financial and managerial factors, the conversion normally will be denied. If the applicant is under a formal agreement or cease and desist order from a financial regulatory agency, the conversion normally will not be approved, unless an agreement is reached with the OCC about the applicant's practices.
- Conformance with statutory criteria, including many of the same standards applicable to chartering a de novo national bank.
- Adequacy of policies, practices, and procedures that parallel OCC's "Minimum Policies and Procedures" (see the Appendix section of the "[Charters](#)" booklet for specific information.) Correction of any deficiencies may be included as conditions, as appropriate, if an approval decision is made. Written policies and procedures are not required for those institutions meeting the definition of a noncomplex community bank contained in the *Comptroller's Handbook for Community Bank Examination Procedures for Noncomplex Banks*.
- CRA record of performance. If the CRA record is less than satisfactory or otherwise problematic, a conversion may be granted approval conditioned on the improvement of an institution's record of CRA performance or the development and implementation of an adequate plan to meet CRA obligations.

The OCC may deny a conversion application if:

- The applicant's financial condition poses supervisory concern.
- There are safety or soundness problems.
- The institution fails to meet applicable capital requirements.

- Significant CRA or compliance concerns exist.
- Ownership problems exist.
- The application is inconsistent with applicable law, regulation, or OCC policy.
- The applicant attempts to use the application to escape supervisory action by the current regulator.
- The applicant fails to provide requested information necessary for the OCC to make an informed decision.

Special Conditions

The OCC may impose special conditions for approvals to protect the safety and soundness of the bank, prevent conflicts of interests, provide customer protections, ensure that approval is consistent with the statutes and regulations, or provide for other supervisory or policy considerations. Special supervisory conditions should be used, if the particular circumstances of the applicant warrant it. For example, when a preconversion examination identifies a particular weakness in an operational area of a noncomplex bank that should be strengthened by improved policies, the following condition may be imposed:

The board of directors must adopt and have in place written policies and procedures to ensure the safe and sound operation of the bank. The board must review those policies and procedures continually and ensure the bank's compliance.

If the converting institution has supervisory concerns that could be addressed or monitored by obtaining an external audit, the following language may be used:

Prior to conversion, the institution's directors must engage an independent, external auditor to perform an audit according to generally accepted auditing standards. The audit must be of sufficient scope to enable the auditor to render an opinion on the institution's (or consolidated holding company's) financial statements. The audit period must begin on the date that the institution converts to a national bank and may end on any calendar quarter-end no later than 12 months after the conversion. The audit will be performed on an annual basis for at least (number) years.

The OCC may apply these conditions as "conditions imposed in writing" within the meaning of 12 USC 1818. The conditions remain in effect after

the effective or consummation date of an approved transaction or activity and continue until the OCC removes them.

Summary of Process

Prefiling Communications

Prior to filing, the OCC encourages applicants to consult with the appropriate licensing manager to discuss the application process, the need for a preconversion examination or review of policies and procedures, any unusual or complex issues, and the benefits of scheduling a prefiling meeting. If a prefiling meeting is appropriate, it usually will be held in the district office in which the application will be filed, but it may be held at another location at the request of the applicant.

An applicant will be advised at the prefiling meeting that the OCC will review the institution's policies, practices, and procedures prior to its conversion to a national bank.

At the prefiling meeting the applicant will be advised if a legal opinion is needed (see State and Federal Law Considerations section for additional discussion.) If a prefiling meeting is not held, the converting institution may be advised of those requirements at the time it files its application.

Filing the Application

An existing depository institution that wishes to convert to a national bank submits to the licensing manager an application, signed by the president or other authorized officer.

The application includes information on the institution's status and condition, reports of condition and income, audited financial statements, and an opinion on the legality of the conversion. A sample is provided that outlines the information to be submitted (see Documents). When an insured depository institution converts to a national bank, it is not necessary to reapply for FDIC insurance for the converted entity.

Expedited Review

An eligible depository institution will be considered for expedited treatment at the time it submits its application and filing fee for conversion. The OCC deems an application approved 30 days after being received by the appropriate licensing manager, unless the OCC notifies the applicant prior to that date that the filing is not eligible for expedited review under the decision standards of 12 CFR 5.13(a)(2) or that the OCC decided the application prior to the 30th day.

The OCC may determine that a filing from an eligible depository institution is not eligible for expedited review if it presents significant legal, policy, supervisory, compliance, or CRA issues. If removed from expedited review, the OCC may request additional information and an additional filing fee to process the notice under the standard process.

Specific Requirements

Corporate Title

The resulting national bank's title must include the word "national."

Shareholder Approval

Shareholders owning no less than 51 percent of the institution's capital stock must approve the proposed conversion. However, if the laws of the state in which the converting institution is organized require more than 51 percent affirmative vote of the shareholders, the effect of the higher requirement must be assessed. Federal savings associations (FSA) must comply with the federal laws applicable to them.

Directors' Approval

A majority of the directors should execute the [Articles of Association](#) and the Organization Certificate (OC). The OC must state that the owners of at least 51 percent of the capital stock have authorized the directors to execute such OC and to change or convert the depository institution into a national association. (See the "[Corporate Organization](#)" booklet for samples.)

A majority of the directors, after executing the [Articles of Association](#) and the OC, are authorized to execute all other papers and do what may be necessary to complete the conversion to a national bank.

The existing bylaws may be used after appropriate amendments (e.g., name change).

State and Federal Law Considerations

An institution desiring to convert to a national bank must include with the application, unless otherwise advised by the OCC, an opinion of counsel stating that in the case of a state bank, is not in contravention of applicable state law or, in the case of a FSA, of federal law. If the proposal presents unusual legal issues, a comprehensive opinion of counsel may be required. These issues may include, but are not limited to:

- Branch retention.

- Noncompliance with state law, yet the conversion is believed to be legal.
- Whether the institution is a bank.
- Nonconforming asset retention, including a nonconforming subsidiary.
- Main office location.
- Interstate issues.
- Exercise of fiduciary powers.
- Noncompliance with residency or citizenship requirements.

The OCC reserves the right to require an opinion of counsel if it determines it is necessary.

Branch Authorization

A converting institution may retain authorized branches, subsidiaries, or other assets as a national bank, if such retention is consistent with applicable law. The applicant must identify all branches that will be retained following the conversion.

The applicant should list the requirements of applicable state and federal branching laws in the application and should certify that the resulting branching structure complies with those laws. Certification of the institution's compliance with state law must include consideration of geographic limitations and any qualitative factors (see the "[Branches and Relocations](#)" booklet.)

Branch authorization numbers will be issued to cover the existing branch facilities or facilities that would be identified as branches under national banking laws (brick and mortar and non-traditional branches) of the converting institution upon consummation of the transaction.

All approved, but unopened, branches also must be authorized to open in accordance with OCC policy (12 CFR 5.30) and the McFadden Act. The application must include approval documents from the state banking department and either the FDIC or Federal Reserve Board (FRB), as appropriate. To receive a branch authorization number, the institution must notify the OCC 10 days before any such branch is opened. The OCC normally will not authorize the opening of an approved branch, if it is not opened within 18 months after the date of its original approval.

Main Office Location

Under certain circumstances and as part of the conversion, an institution may wish to designate in its Articles of Association and OC that the main office of the resulting national bank will be at a site other than the main office site of the institution being converted. In such cases, the applicant should consult with the OCC.

Operating Subsidiary Activities

A depository institution seeking to convert to a national bank must identify all subsidiaries that will be retained following the conversion. It should provide a complete description of the activities and all other information that would be required for approval pursuant to 12 CFR 5.34 as a national bank subsidiary. The OCC will request a legal analysis if the legality of the subsidiary's activities is unclear. (See the "[Investment in Subsidiaries and Equities](#)" booklet for specific information).

The OCC will consider the subsidiary portion of this transaction as part of the conversion (i.e., only one application and one filing fee (for the conversion) is required). The OCC will analyze the permissibility of the activity and whether the performance of such activities by national banks is consistent with the safe and sound operation of the applicant and the national bank system. The OCC's decision on the operating subsidiary's activities will be included in the conversion's decision. If the OCC approves the conversion, but objects to an operating subsidiary, it will instruct the applicant to divest of the subsidiary prior to consummation or within a specific period of time as may be necessary to enable the nonconforming subsidiary to be resolved without undue hardship.

Nonconforming Assets and Activities

Permanent Retention

The OCC may permit a state bank converting to a national bank charter to retain assets that otherwise would be nonconforming for national banks, including investments in nonconforming subsidiaries, under 12 USC 35.

The applicant must identify and request prior approval to retain permanently nonconforming assets, including the nonconforming subsidiaries, that it holds. An approval may be subject to conditions and an OCC determination of the carrying value of the retained assets.

A legal opinion describing how the nonconforming assets comply with applicable laws that pertain to the preconverted institution should be submitted, if the applicant wishes to retain those assets after conversion.

Temporary Retention

In addition, the OCC also will permit a converting institution a reasonable period of time, generally not to exceed two years, after conversion to divest of, or conform, any nonconforming asset not being permanently retained under 12 USC 35.

The OCC also will permit a reasonable period of time, generally not to exceed two years, for a converting institution to retain nonconforming activities for divestiture purposes. The OCC may permit a reasonable divestiture period so that the converting institution may dispose of the asset or activity without undue hardship.

If the applicant wishes to divest nonconforming assets or activities, the application should describe the plan to divest those assets, outlining the period of time needed.

Business Plan

A business plan may be required if there will be a significant change in the bank's operations or strategy. If required, the plan should describe the future business objectives for the resulting national bank. A converting institution that is eligible for expedited review may omit that information. At a minimum, the description should address or include:

- Any anticipated changes in operations.
- A list of directors and anticipated changes in the directorship.
- Any anticipated changes in management.
- Any plans to raise additional capital.
- Any anticipated funding changes.
- Any anticipated changes in the loan composition.
- Any anticipated expansionary plans.
- Any changes to its CRA obligations.
- Management's plans to familiarize themselves with national banking laws, rules, and regulations.
- Projected financial statements (reflecting the effects of proposed changes) to cover a period of three years (along with any adjusting entries that result from the conversion).

Capital

National banks are subject to certain statutory and regulatory minimum capital requirements. Every national bank must meet the minimum capital requirements set forth in 12 USC 51. Additionally, the bank's capital stock must be divided into shares of \$100 each, or a less amount as provided in the Articles of Association, as set forth in 12 USC 52.

Every national bank seeking to establish branches outside of the city, town, or village in which it is situated must, under 12 USC 36(c), have capital and surplus equal to that required of state-chartered institutions applying to establish branches.

The institution also should refer to 12 CFR 3, Minimum Capital Ratios, for the required minimal acceptable capital ratio for national banks and 12 CFR 6, Prompt Corrective Action, which specifies supervisory actions restricting the activities of banks categorized as undercapitalized, significantly undercapitalized, or critically undercapitalized.

If the institution does not file a Bank Call Report or Thrift Financial Report (TFR), it should enclose with the filing a risk-based capital schedule that details the elements of Tier 1 and Tier 2 capital on a present and projected basis, and include the calculation of the risk-based capital and leverage ratios. It may use FFIEC "Schedules RC-R" or the "Optional Regulatory Capital Worksheet," Parts 1-3, updated quarterly. These schedules are available from the Licensing staff.

Directors and Officers

Directors and executive officers normally are not required to submit the Interagency Biographical and Financial Report. However, the OCC reserves the right to require submission of either or both sections of the report (see the ["Background Investigations"](#) booklet).

Every director must own qualifying shares of the capital stock prior to conversion to a national banking association in conformance with 12 USC 72 and 12 CFR 7.2005.

Directors of the converting institution may continue to be directors of the national bank until others are elected or appointed.

A majority of the directors of the institution should execute the Articles of Association and OC. The OC should state that the owners of a majority of the capital stock have authorized the directors to change or convert the institution into a national bank (see 12 USC 35).

A majority of the directors, after executing the Articles of Association and the OC, have the power to execute all other papers and do what is required to complete its organization as a national bank.

Citizenship and Residency Requirements

All directors must comply with the residency and citizenship requirements set forth in the National Banking Act (12 USC 72). The law requires that every director be a citizen of the United States for the entire term of service. The OCC may make an exception if the bank is a subsidiary or an affiliate of a foreign bank and may waive the requirement of citizenship for no more than a minority of the total number of directors. If the converting institution wishes to elect or appoint one or more non-United States citizens to its board of directors, the institution may request a waiver of the citizenship requirements.

Unless the OCC waives the residency requirement, a majority of a bank's directors must reside in the state in which the bank is located (i.e., the state(s) in which the bank has its main office or branches) or within 100 miles of its main office for at least one year immediately preceding their election (12 USC 72). Directors must maintain their state residency or reside within 100 miles of the location of the bank during their continuance in office (see the "[Director Waivers](#)" booklet for specific information).

Insurance

Fidelity Bond

The institution must purchase adequate fidelity bond coverage in accordance with 12 CFR 7.2013, which lists four factors the directors should consider to determine adequacy. They are:

- Internal auditing safeguards employed.
- Number of employees.

- Amount of deposit liabilities.
- Amount of cash and securities normally held by the bank.

Credit Life

If the institution sells credit life insurance to loan customers, all income from that activity must be credited as described in 12 CFR 2. The institution's directors must select a means of marketing the insurance to accomplish that objective and comply with federal and state banking and applicable insurance laws.

Federal Home Loan Bank (FHLB) Membership

If, at any time, the converted institution ceases to be a member of the FHLB system, it must use its best efforts, including contacting the appropriate FHLB and/or the Federal Housing Finance Board, to dispose of any stock in the FHLB. The OCC will consider this stock a nonconforming asset if the institution is not a member of the FHLB system.

Federal Reserve Membership

If not already a member, the institution must apply to purchase the required amount of stock in the Federal Reserve Bank to the extent required by 12 CFR 209, if applicable.

Fiduciary Powers

An institution seeking to convert to a national bank and exercise fiduciary powers must request and obtain prior OCC approval to exercise fiduciary powers. This requirement applies uniformly to all converting institutions seeking fiduciary powers regardless of whether they currently exercise them. If approval to exercise fiduciary powers is requested, the converting institution must also comply with the procedures in 12 CFR 5.26 (see the "[Fiduciary Powers](#)" booklet).

Internal and External Audits

The OCC encourages each national bank to adopt an internal audit system appropriate to its asset size and the nature and scope of its activities. Some banks may elect to adopt a system that incorporates independent reviews instead of dedicated audit staff (see "Internal and External Audits" booklet of the *Comptroller's Handbook*). Institutions with over \$500 million in assets are required under FDIC regulations to have an external audit (12 CFR 363).

Liquidation Account

When the converting institution is a depository institution that converted from a mutual to a stock institution, the resulting national bank must maintain a liquidation account. This account is merely a segregation for accounting purposes of the converted institution's undivided profits.

This account represents the eligible depositors' interest in the net worth of the mutual institution at the time it converted to a stock institution. In the event of liquidation, eligible depositors are entitled to a priority distribution from the institution's net worth, after creditors, but before any distributions are made to capital stockholders.

After conversion to a stock institution, the liquidation account should be reported as part of the bank's undivided profits. However, the balance of the account is restricted for payment to eligible deposit holders at the time of conversion to stock in the event of liquidation. Accordingly, the institution should indicate the restrictions in reports to its shareholders. For risk-based capital and call report purposes, the account is considered a segregated amount of the bank's undivided profits and should be reported in Tier 1 capital.

Field Investigation

The OCC normally does not conduct a field investigation for a conversion application accorded expedited review. If the depository institution's condition, management, and community reinvestment record are satisfactory, the OCC generally will not require a preconversion field investigation. However, the OCC may conduct a preconversion field investigation whenever necessary to obtain relevant information about the condition of the institution.

If the OCC schedules a field investigation to ascertain an applicant's qualifications to convert to a national banking association, it may assess a separate fee. The scope of the preconversion field investigation includes, at a minimum, an assessment of:

- The board of directors' internal control systems to assure the institution's compliance with the currency reporting and recordkeeping requirements of the Bank Secrecy Act.
- Any difference between accounting used by the institution and OCC accounting standards. Details should be provided, by the applicant, on the effect of adopting OCC standards on the balance sheet and income statement.

- The business plan and its policies, practices, and procedures.

The OCC provides a copy of the preconversion field investigation report to the applicant. Reports will include clear warnings against improper use or disclosure of the report. The information obtained in the investigation may be shared with other regulators.

If the investigation finds that the institution's condition, management, and community service are satisfactory, the OCC generally will grant approval and notify it of the conversion requirements and procedures. The board of directors is responsible for the regular review of policies and procedures and for assuring continuous compliance with them.

Ownership

The applicant should provide a statement outlining any proposed or outstanding stock, warrants, and options, and voting control arrangements offered as compensation to directors, executive officers, and principal shareholders. The applicant should disclose any options, warrants, and/or other benefits associated with the proposed capital. Such disclosure should be made regardless of whether it is at the bank or holding company level. Additionally, the applicant should submit a list of directors and shareholders owning 10 percent or more of capital stock with the application to convert.

Year 2000 Considerations

The OCC expects all national banks to have an action plan to address year 2000 systems issues. The OCC will consider those issues in deciding a conversion to a national bank charter.

OCC Guidance

The OCC has issued the following advisory letters about year 2000 systems issues:

- Advisory Letter 97-6 ([AL 97-6](#)), dated May 16, 1997, which outlines comprehensive guidance for banks to effect a year 2000 compliant system.
- Advisory Letter 97-10 ([AL 97-10](#)), dated December 17, 1997, which outlines safety and soundness guidance for year 2000 business risk.
- Advisory Letter 98-1 ([AL 98-1](#)), dated January 20, 1998, which outlines OCC year 2000 expectations for year-2000-covered applications.

- Advisory Letter 98-3 ([AL 98-3](#)), dated March 27, 1998, which outlines guidance concerning certain risk factors and due diligence to consider when assessing year 2000 vulnerabilities.

Advisory Letters have established the following target time frames to accomplish critical actions for year 2000 compliance:

- September 30, 1997 — The bank should have identified affected applications and databases. Mission critical applications should be identified and an action plan set for year 2000 work.
- June 30, 1998 — The bank should have implemented a process which identifies, assesses, and controls the year 2000 risks (i.e., credit, liquidity, or counter party trading risks) posed by their customers.
- December 31, 1998 — Code enhancements and revisions, hardware upgrades, and other associated changes should be largely completed. In addition, for mission critical applications, programming changes should be largely completed and testing should be well underway.

Between January 1, 1999 and the end of that year, the bank should be testing and implementing their year 2000 conversion programs.

Assessment of Year 2000 Compliance

A converting bank must ensure that its application addresses compliance with [AL 97-6](#), [AL 97-10](#), [AL 98-1](#), [AL 98-3](#), and any other subsequent OCC year 2000 guidance. During the corporate review process, the Licensing staff will consult with the appropriate supervisory staff (i.e., portfolio manager, ADC, or BIS) to verify that the bank is on schedule with the target time frames of [AL 97-6](#) or subsequent guidance. For the most current guidance about year 2000 issues, refer to the OCC's Internet site, <http://www.occ.treas.gov>, or call the OCC Information Line (fax-on-demand service).

Deficiencies or Concerns

The OCC will conduct additional reviews of any converting bank that is not in compliance with the OCC's year 2000 guidelines, including the target time frames of [AL 97-6](#) and [AL 98-3](#). At that time, the OCC may:

- Assess the applicant bank's financial and managerial ability to remedy any year 2000 deficiencies.
- Review its plans to remedy any year 2000 deficiencies.
- Remove the application from expedited review status to further review compliance issues.

- Impose appropriate conditions, enforceable under 12 USC 1818, to address year 2000 concerns if the problem represents a significant supervisory concern. Appropriate conditions could include:
 - Specific requirements and time frames for specific remedial actions.
 - Specific measures for assessment and evaluation of the bank's year 2000 status or progress.

The OCC may deny a filing if the problems represent a significant supervisory concern or if approval would be inconsistent with applicable law, regulation, or OCC policy.

Conversion Application

Date

Licensing Manager, District
Comptroller of the Currency
Address
City, State, ZIP Code

Dear Licensing Manager:

We request approval to convert to a national banking association. Our counsel has advised us that the conversion is not in contravention of applicable federal and state laws. (See the enclosed opinion of counsel.) We are, and will remain, a SAIF/BIF member of the Federal Deposit Insurance Corporation. We *(do/do not)* have deposits insured by the fund of which we are not a member. [Or *(we are not now FDIC insured, but we will apply for SAIF/BIF membership).*]

The proposed corporate title of the bank after the conversion is *(name of bank)*.
The main office of the national bank will be *(street address, city, state, ZIP Code)*.

We presently are capitalized at:

Capital Stock	\$(amount)
Surplus	\$(amount)
Total capitalization	\$(amount)
Number of shares authorized	(amount)
Number of shares issued	(amount)
Par value per share	\$(amount)

This capitalization is (above/below) the minimum normally required by 12 USC 51. *(If the institution does not meet 12 USC 51 requirements, explain how it will achieve compliance.)* We also meet the requirements of 12 CFR 3 and 6.

We have enclosed the most recent report of condition; report of income *(the most recent daily statement of condition will suffice, if these reports are not filed with the regulator)*; the most recent audited financial statements (if applicable); or the latest annual report for the institution and/or the 10K of the parent company, if applicable. (A federal savings association should include a copy of its latest TFR.) *(If the institution does not file a call report or TFR, enclose a risk-based capital schedule that details the elements of Tier 1 and Tier 2 capital on a present and projected basis and include the calculation of the risk-based capital and leverage ratios. The applicant may use Schedules RC-R or the Optional Regulatory Capital Worksheet, Parts 1-3.)*

We have enclosed a year 2000 action plan that complies with the OCC's year 2000 guidelines.

The *(name of holding company)* is headquartered in *(city, state)*. [or, The conversion *(does/does not)* involve the conversion of the thrift holding company to a bank holding company.]

We have enclosed the most recent CRA public evaluation of our institution and have indicated any material changes we propose to make in our plans to meet our CRA obligations.

[If the applicant is not now subject to CRA.] We have enclosed a description of how we will meet our CRA obligations.

[If required] An "[Interagency Biographical Report](#)" for the proposed director is enclosed.

[If applicable] Enclosed is a statement outlining proposed or outstanding stock, warrants, options, and voting control arrangements offered as compensation to directors, executive officers, and principal shareholders. A list of all directors and shareholders owning 10 percent or more of capital stock is enclosed.

[For operating subsidiaries] We have enclosed a list of all subsidiaries that are permissible under 12 CFR 5.34 that will be retained following the conversion, along with a complete description of their operations. We also have enclosed a list of nonconforming assets and activities, including nonconforming subsidiaries, along with our plans for their divestiture *(or our request to retain them)*. We currently are authorized to hold these assets pursuant to applicable state and/or federal law. We have enclosed a legal analysis.

[For branches] We have enclosed a list of all authorized licensed branches, including their popular names, addresses, cities, states, ZIP Codes, and county locations, which we will continue to operate. We have *(insert number)* approved, but unopened, branches and/or other facilities that may be branches under national banking law, which are also listed, along with a copy of the original approval letter(s) from our current state and/or federal regulator(s).

[Bank premises] We are in compliance with 12 USC 371d for investment limits in bank premises *(or have enclosed a request for approval of an excess investment pursuant to 12 CFR 5.37)*.

[For fiduciary powers] We request approval to exercise (all permissible fiduciary powers or the following limited fiduciary powers): *(If appropriate, list fiduciary powers requested.)*

The bank's capital and surplus are not less than that required by state law of state banks, trust companies, and other corporations exercising comparable fiduciary powers.

The fiduciary powers we propose to exercise are not in contravention of applicable laws (see enclosed opinion of counsel and list of applicable laws) and will be conducted at the following location(s): *(insert site(s))*.

Biographical information on the proposed trust management personnel, including educational and professional credentials and 5-year employment history, is enclosed.

[For banks chartered less than two years] We also have enclosed an operating plan for the trust department (fiduciary operation) for your review and comment.

[For conversions of a savings association to a national bank]

We have enclosed a discussion of any difference between accounting used by the thrift and OCC accounting standards. We have provided details of the effect of adopting OCC standards on the balance sheet and income statement.

[If required] Also submitted is a description of the future business plans of the national bank upon completion of the conversion.

[For all applicants.]

We have enclosed a check payable to the Comptroller of the Currency for the filing fee in accordance with the current annual "Notice of the Comptroller of the Currency Fees."

We desire OCC action on this application no later than *(date)*.

I certify that the information contained in this filing has been examined carefully by me and is true, correct, and complete and is current as of the date of this submission. Additionally, I agree to notify the OCC if the facts described in the filing materially change prior to receiving a decision or at any time prior to consummation of the conversion. I acknowledge that any misrepresentation or omission of a material fact constitutes fraud in the inducement and may subject me to legal sanctions provided by 18 USC 1001.

If you have any questions, please contact *(name, address, city, state, ZIP Code)* at *(telephone and fax numbers)*.

Sincerely,

) Signature)

President or Authorized Officer

Enclosures

Authority for Conversion to National Bank

I hereby certify that, at a meeting of the shareholders of *(insert name of institution)* located at *(street address)* in the *(city, county)* and *(state)* held on *(date)*, the required notice of the meeting having been given, as provided by the appropriate state or federal laws, the following resolutions were voted upon:

That upon the effective date specified in the Comptroller of the Currency letter issuing the charter, *(insert name of institution, city, state)*, an institution now functioning under *(insert state or federal law)*, be changed or converted under the provisions of the statutes of the United States into a national banking association, with the title, *(name of bank)*.

That the authorized amount of capital stock of this association shall be (\$), divided into *(insert number)* shares of common stock of the par value of (\$) each.

That the directors of the institution, through an action by a majority of the directors of the institution, be authorized to execute the Articles of Association and an Organization Certificate for the national banking association, to execute all other papers and to do whatever may be required to make its complete conversion to a national banking association.

That *(list directors)*, who are now directors of the institution, be continued as directors of the national banking association until others are elected or appointed in accordance with the provisions of the statutes of the United States.

I further certify that the above resolutions were adopted by the affirmative vote of the holders of a majority *(or greater amount if required by applicable law)* of the outstanding shares.

(President, Cashier or Secretary)

Letter Certifying Conversion Completion

Date

Licensing Manager, District
Comptroller of the Currency
Address
City, State, ZIP Code

Re: Application Description, CAIS Control Number

Dear Licensing Manager:

This certifies that we have taken all steps required to convert to a national bank, executed all documents required to organize, and retained them in the bank's file. We also certify that:

- The shareholders' approved and a majority of the board of directors authorized the conversion.
- The Bylaws have been adopted (*amended*).
- All directors have acquired shares in accordance with 12 USC 72 and 12 CFR 7.2005.
- **[If applicable]** We made application to the Federal Reserve for membership.

The following documents are enclosed:

- Oath and List of National Bank Directors (joint/individual).
- Executed Articles of Association.
- Executed Organization Certificate.

We plan to open as a national bank on (*date*). We look forward to receiving a national bank charter certificate and (if applicable) branch authorizations.

Sincerely,

) Signature)

Authorized Representative

Enclosures

Prefiling

Licensing Staff

1. Refers an institution that requests instructions to the "[General Policies and Procedures](#)" booklet and to this booklet of the *Comptroller's Corporate Manual*.

Applicant

2. Requests an optional prefiling meeting to review procedures for conversion to a national bank charter and the factors that may influence the OCC's review of the application.

Licensing Staff

3. Arranges a prefiling meeting with the applicant, if appropriate. Invites the appropriate OCC staff (e.g., legal, supervision, compliance, community development, economics). During the prefiling discussions (or if no prefiling discussions, within seven days of receipt of the filing), the licensing staff should inform the applicant of the importance of year 2000 preparedness by:
 - Providing the applicant with copies of the OCC's year 2000 guidelines ([AL 97-6](#), [AL 97-10](#), [AL 98-1](#), [AL 98-3](#), and any subsequent issuances) and advising the applicant that we will consider compliance with these guidelines.
 - Advising the applicant that the application must include a year 2000 action plan in accordance with the OCC's year 2000 guidelines.
4. If any prefiling communication or meeting reveals that the filing will present significant or novel policy, legal, or supervisory issues, or involves permanent retention of nonconforming assets, including subsidiaries and activities, contacts Bank Organization and Structure (BOS) to decide:
 - Whether the application should be filed with the Washington office, if broad issues are involved.
 - If specific issues should be carved out for Washington action, while the application continues to be processed by the appropriate Licensing staff.

- When the filing should be forwarded to Washington.
- 5. Prepares summary memorandum on all prefiling communications, meetings, and policy or legal issues raised. Retains all pertinent information in the pending file.

Filing the Application

Applicant

6. Submits a complete application signed by the institution's president or other duly authorized officer and the filing fee to the appropriate licensing manager. The letter should include or be accompanied by:
 - The document entitled "[Authority for Conversion to National Bank](#)."
 - The proposed title of the new national bank.
 - A statement of qualifications for an "eligible depository institution," if applicable.
 - The most recent quarterly Report of Condition and Income (the call report or TFR may be filed or the most recent daily statement of condition, if those reports are not filed).
 - The most recent audited financial statements. (If an external audit is not available, the directors' audit may be submitted.)
 - The most recent annual report and/or 10K for the parent company, if applicable.
 - A list of any outstanding and/or proposed options/warrants.
 - A listing of all subsidiaries to be retained and the nature of their operations, including nonconforming assets and activities and plans for divestiture or to bring into conformance, or a request for retention.
 - A discussion of any difference between accounting used by the institution and OCC accounting standards.
 - A list of branches that will continue to operate after the conversion, including the popular name, street address, city, state, and ZIP Code; certification that the locations are legal locations in which a national bank may have branches; and a list of branches approved,

but unopened, and plans for their operation, including a copy of the approval.

- Representation of compliance with 12 USC 371d and 12 CFR 7.1000 regarding investment limits in bank premises (see "[Investment in Bank Premises](#)" booklet).
- A statement of whether the institution wishes to exercise fiduciary powers after the conversion (see "[Fiduciary Powers](#)" booklet).
- An opinion of counsel that the conversion is not in contravention of applicable state or federal law. *[The applicant should consult with the OCC to determine if the proposal presents any unusual legal concerns that would require a detailed legal opinion.]*
- Submission of "Interagency Biographical and Financial Report," by all directors and executive officers, if required (see "[Background Investigations](#)" booklet).
- A description of any significant change to the business plan or strategy, noting any changes to its CRA obligations.
- A year 2000 action plan that is in compliance with the OCC's year 2000 guidelines.
- If applicable, the name of the bank holding company.
- The prescribed filing fee (see OCC Bulletin) Notice of the Comptroller of the Currency Fees).

In addition to the previous information, savings associations must provide:

- A statement that the institution is a: (1) BIF member; (2) BIF member with a portion of the deposits assessed as SAIF deposits; (3) SAIF member; (4) SAIF member with a portion of the deposits assessed as BIF deposits; or (5) uninsured.
- If applicable, the name of the thrift holding company and a statement of whether the conversion involves converting the thrift holding company to a bank holding company. If it is not the intent of the thrift holding company to become a bank holding company, a discussion on the resolution of the ownership issue.

Review

Licensing Staff

7. Determines the filing process and initiates and enters appropriate information into the Corporate Activities Information System (CAIS).
8. Establishes the official file to maintain original documents.
9. Forwards the correct filing fee and the deposit memorandum (Form 6043-01) to the Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. Retains a copy of the deposit memorandum. Requests a filing fee if not received.
10. Contacts the institution's state and federal supervisors by phone or letter to:
 - Obtain their supervisory background and comments.
 - Discuss the extent and results of any year 2000 compliance exam.
 - Determine whether the institution is subject to an agreement, other enforcement proceeding, or order.
 - Obtain its reports of examination issued during the most recent three years.
11. Determines if the institution meets the "eligible depository institution" criteria for expedited review, if it:
 - Is eligible for expedited review, acknowledges filing within five business days of receipt.
 - Is not qualified for expedited review, identifies specific reason and, within five business days of receipt, acknowledges filing and provides notice of standard processing.
12. Reviews the filing and any other relevant information about the institution, including the draft Articles of Association and Organization Certificate, and:
 - If the filing presents significant or novel policy, legal, or supervisory issues, repeats step 3.
 - Determines if the filing contains all information necessary to reach a decision.

- If the filing does not contain all information needed to reach a decision, requests necessary information from the institution and establishes a specific due date to provide the information.
 - Determines if the institution has requested that the main office of the resulting national bank will be at a site other than the main office of the institution being converted. If so, the issue should be addressed specifically and called to the attention of the appropriate BOS analyst and district counsel.
13. Within five business days of receipt notifies the appropriate portfolio manager and Assistant Deputy Comptroller (ADC) of the filing and solicits comments, as appropriate, from district counsel, supervision, community development, compliance, and other OCC divisions with a preliminary response required within 15 days. If any policy, legal, or supervisory issues are identified, repeats step 3.
 14. If necessary, performs background checks on all directors and executive officers and principal shareholders (see "[Background Investigations](#)" booklet for further details).
 15. Verifies that existing and/or proposed directors meet the residency and citizenship requirements of 12 USC 72, as amended, and 12 CFR 7.2005, or appropriate waivers have been requested.
 16. Reviews recent examination reports and other information pertaining to the condition of the converting institution. Determines if an OCC preconversion field investigation is needed, and:
 - If needed, notifies the appropriate national bank examiner (NBE) to schedule it with the institution (normally within 60 days from date of receipt of the conversion application). Specifies matters to be considered and notifies applicant (see [Procedures\) Field Investigation](#)).
 - If not needed, documents file with reason.

Decision

Licensing Staff

17. Prepares confidential memorandum and decision letter recommending a decision to delegated official. If information was forwarded to community development (CDD), include appropriate information in the decision document.

18. Decides the application under delegated authority or forwards the official file to BOS for decision.
 - If delegated, notifies applicant of the decision by telephone, if appropriate.
 - If referred to BOS, makes CAIS entry and forwards the official file to BOS. Goes to step 35.
19. Sends the applicant a decision letter.
 - Includes the bill for the preconversion field investigation, if applicable.
 - Verifies accuracy of spokesperson's name, address, and telephone number and makes any necessary correction in CAIS for Communications to forward the OCC manuals and publications.
20. If the application is conditionally approved or denied, forwards a copy of the confidential memorandum, decision document, and decision letter to the Quality Assurance Coordinator.
21. Makes appropriate CAIS entries. Notifies the appropriate portfolio manager and Assistant Deputy Comptroller (ADC) of the decision by forwarding updated CAIS comments and, if warranted, advises of any written conditions or supervisory concerns in the decision.
22. Goes to step 35.

BOS

23. Makes appropriate CAIS entries.
24. Reviews file and solicits comments from legal, supervision, community development, compliance, and other OCC divisions, as appropriate.
 - If precedent setting, involves a policy strip out issue, or presents unresolved legal issues, requests a legal analysis or Supervision Operation's guidance.
 - Determines if the OCC should publish a public notice for comment in the *Federal Register*.
25. Prepares and sends the confidential memorandum and decision letter, recommending a decision to the delegated official.

26. After decision, notifies institution, district, and interested parties, if applicable, by telephone.
27. Sends the applicant a decision letter and:
 - Includes the bill for the preconversion field investigation, if applicable.
 - Verifies accuracy of spokesperson's name, address, and telephone number and makes any necessary correction in CAIS for Communications to forward the OCC manuals and publications.
28. Makes appropriate CAIS entries. Notifies the appropriate portfolio manager, Assistant Deputy Comptroller (ADC), and CDD of the decision by forwarding updated CAIS comments and, if warranted, advises of any written conditions or supervisory concerns in the decision.
29. For approved or conditionally approved filings, returns the official file, including the preconversion field investigation, to the district for additional processing.
30. If the application is conditionally approved or denied, forwards a copy of the confidential memorandum, decision documents, and transmittal letter to the Quality Assurance Coordinator.
31. If denied, goes to step 41.

Organization Procedures

Applicant

32. Identifies any material change to the filing and provides notice of such change to the Licensing staff.
33. Completes all steps required to convert (see "[Corporate Organization](#)" booklet and [Letter Certifying Conversion Completion](#) in the Documents section of this booklet).
34. If a preconversion field investigation was conducted, verifies that deficiencies found have been corrected.
35. Submits a letter to the Licensing staff certifying the conversion's completion and attesting to the satisfactory resolution of any conditions imposed in the [approval letter](#) (see Documents).

Licensing Staff

36. Checks the organization documents for compliance with all statutory, regulatory, and other requirements. Consults with legal counsel, if necessary.
37. Notifies the institution of any matters requiring resolution, before it may operate as a national bank and ensures that those matters are resolved. If any serious problems are found, including violations of law or unresolved conditions specified in the approval letter, the conversion may be delayed or approval may be revoked.
38. Determines that the conversion does not contravene applicable federal or state law in any manner and consults the legal department when appropriate.
39. Notifies the institution that it is authorized to operate as a national bank as of a specified date and that a charter certificate (and branch certificate(s), if applicable) will be forwarded with the effective date; or grants an extension of time to convert, if appropriate. Approval to operate as a national bank will not be given to an institution with a bank holding company bank, until the FRB has approved the holding company.
40. Sends a letter to the institution, authorizing it to commence business as of a specified date, and includes the signed charter and branch certificates.
41. Files two copies of the charter certificate in the OCC's official file.

Close Out

42. Reviews the file for completeness and forwards it to Central Records.
43. Makes appropriate CAIS entries.

Assignment and Preplanning

Licensing Staff

1. Requests the appropriate supervisory office to assign a national bank examiner (NBE) to the field investigation.
2. Provides a Field Investigation Request (request) to the NBE along with relevant materials (i.e., charter number, application and any amendments, biographical information, and any information on areas Licensing suggests may warrant particular attention).

NBE

3. Performs the preconversion field investigation (normally within 60 days from date of receipt of the conversion application).
4. Calls the spokesperson to schedule the investigation.
5. Notifies the Licensing staff of the start date and determines the date for submission of the completed report.
6. Prior to conducting the investigation:
 - Reviews the conversion application and file enclosed with the request.
 - Schedules necessary interviews.
 - Reviews any special instructions in the request.

Onsite Review

7. Determines the institution's condition based on judgments that:
 - Management ensures compliance with applicable federal and state thrift or state banking laws, rulings, and regulations.
 - Management exhibits strategic planning skills that reflect a reasonable prospect for the successful operation of the proposed bank.

- The soundness of management based on the condition of the institution and on management's ability to recognize and correct problems.
 - The institution's record of CRA performance is at least satisfactory or not otherwise problematic.
 - The operations of the institution reflect sound credit skills and risk funds management.
 - The institution's compliance with national banking laws, regulations, and rulings will be satisfactory. Includes an assessment of nonconforming assets.
 - The institution will be year 2000 compliant by considering comments from the Bank Information Systems examiner about:
 - The applicant's year 2000 compliance action plan and whether it properly identifies critical applications and systems that need to be year 2000 compliant.
 - The applicant's due diligence efforts to assess its vendors' ability to provide year 2000 compliant products and services and to monitor the vendors' year 2000 conversion efforts.
 - Whether the applicant plans to offer PC or Internet banking. If so, advises Licensing staff who will consult with BOS.
8. Schedules a meeting with management and the board of directors at the conclusion of the visit to inform them of the findings (see the "Meeting with Boards of Directors" booklet of *The Comptroller's Handbook*.)
 9. Discusses results of the investigation, highlighting the deficiencies, recommendations, and suggestions with both management and the board of directors. Requests that management respond to major criticisms or take corrective action prior to consummating the conversion. (The institution's response should be submitted to the Licensing staff.) Makes recommendation including possible conditions for approval are not disclosed.
 10. Assigns preliminary ratings, including CRA assessment.
 - Preliminary ratings are not disclosed to management. The composite rating will be disclosed in the preconversion field investigation report.

- If the preconversion field investigation reveals concerns, the OCC may request additional information or clarification from the converting institution.
11. Does not inform anyone outside of the OCC of the contents of the investigation report.

Report Preparation

12. Prepares billing information in accordance with 12 CFR 8.6.
13. Prepares recommendation on the conversion and forwards the written report in memorandum format and the field investigation billing information to the Licensing staff and:
 - Briefly summarizes findings and conclusions and specifically addresses any problems or area(s) of concern.
 - Retains the conversion file, including the application, all investigation work papers, and a copy of the written report.
14. Enters into SMS a background profile of the bank. (SMS may be accessed by the bank's charter number; however, the bank will still be inactive at this time.)

Conversions

References

Accounting	
Issuance	EC-255
Audits	
Regulation	12 CFR 363
Issuance	EC-227
Background Investigation	
Regulations	28 CFR 16.37, 50.12
Bank Secrecy Act (BSA)	
Regulations	12 CFR 21.21, 31 CFR 103
Bank Service Company	
Laws	12 USC 1861-1867, 1843(c)(8)
Regulation	12 CFR 5.35
Branches	
Law	12 USC 36
Regulation	12 CFR 5.30
Capital	
Laws	12 USC 35, 36, 51, 52, 56, 60
Regulations	12 CFR 3, 6
Certificate	
Laws	12 USC 1814, 1816
<i>Authority to Transact Banking Business</i>	
Laws	12 USC 26, 27
<i>Capital Stock Certificates</i>	
Law	12 USC 52
<i>Organization</i>	
Law	12 USC 22
<i>Filing/Preservation of</i>	
Law	12 USC 23
<i>Publication of</i>	
Law	12 USC 28
Community Reinvestment Act of 1977	
Law	12 USC 2901
Regulation	12 CFR 25

Conversion	
Law	12 USC 35
Regulations	12 CFR 5.24, 546
Corporate Powers and Investment Securities	
Law	12 USC 24
Decisions	
Regulation	12 CFR 5.13
Depository Institutions Management Interlocks Act	
Law	12 USC 3201
Regulation	12 CFR 26
Directors	
Laws	12 USC 71, 71a
<i>Engaged in Underwriting</i>	
Law	12 USC 78
<i>Oath of</i>	
Law	12 USC 73
<i>President as</i>	
Law	12 USC 76
<i>Qualifications</i>	
Law	12 USC 72
Regulation	12 CFR 7.4210
Expedited Review	
Regulation	12 CFR 5.24(d)(4)
Factors Considered in	
Law	12 USC 1814
<i>Authorizing Certificate</i>	
Law	12 USC 1816
Federal Deposit Insurance Act	
Law	12 USC 1823
Federal Reserve Membership	
Laws	12 USC 222, 501a
Regulation	12 CFR 209
Fidelity Insurance	
Regulation	12 CFR 7.2013
Fiduciary Powers	
Law	12 USC 92a
Regulation	12 CFR 5.26

Filing Fees	
Regulations	12 CFR 5.5, 8.6
Bulletin	OCC 97-47
Investigation, Examination, and Required Information	
Law	12 USC 481
Regulations	12 CFR 5.7, 8.6
Investment in Bank Premises	
Law	12 USC 371d
Regulations	12 CFR 5.37, 7.1000
Mutual to Stock Conversion	
Law	12 USC 1828(c)(10)
Operating Subsidiaries	
Regulation	12 CFR 5.34
Organization Certificate	
Law	12 USC 22
Organization of National Bank	
Laws	12 USC 21, 21a
Regulation	12 CFR 5.20
Place of Business	
Law	12 USC 81
Prohibited Activities	
Law	12 USC 25a
Securities Devices and Procedures	
Law	12 USC 1882
Regulation	12 CFR 21
Shareholders' List	
Law	12 USC 62
State Bank Definition	
Law	12 USC 214
Termination of Insurance	
Law	12 USC 1818(a)
Termination of National Bank Status	
Laws	12 USC 214a, 214b, 214c
Regulation	12 CFR 5.24

Title Changes

Regulation

12 CFR 5.42

Year 2000 Issues

Advisory Letters

AL [97-6](#), [97-10](#), [98-1](#), [98-3](#)

Letter to CEO of National Banks
and Bank Vendor Companies on
year 2000, dated September 30,
1997